

Introduced by Senator BerryhillFebruary 22, 2013

An act to add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 787, as introduced, Berryhill. Environmental quality: the Sustainable Environmental Protection Act.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Existing law establishes regulations related to numerous environmental issues.

This bill would enact the Sustainable Environmental Protection Act and would specify the environmental review required pursuant to CEQA for projects related to specified environmental topical areas. For a judicial action or proceeding filed challenging an action taken by a lead agency on the ground of noncompliance with CEQA, the bill would prohibit a cause of action that (1) alleges noncompliance with CEQA based on any topical area or criteria for which compliance obligations are identified or (2) challenges the environmental document based on

noncompliance with CEQA if: (A) the environmental document discloses compliance with applicable environmental law, (B) the project conforms with the use designation, density, or building intensity in an applicable plan, as defined, and (C) the project approval incorporates applicable mitigation requirements into the environmental document. The bill would provide that the Sustainable Environmental Protection Act only applies if the lead agency or project applicant has agreed to provide to the public in a readily accessible electronic format an annual compliance report prepared pursuant to the mitigation monitoring and reporting program.

Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 13.6 (commencing with Section 21200)
2 is added to the Public Resources Code, to read:

3
4 DIVISION 13.6. SUSTAINABLE ENVIRONMENTAL
5 PROTECTION ACT

6
7 21200. This division shall be known and may be cited as the
8 Sustainable Environmental Protection Act.

9 21200.5. The Legislature finds and declares all of the following:

10 (a) The Legislature adopted the California Environmental
11 Quality Act (Division 13 (commencing with Section 21000))
12 (CEQA) in 1970 in recognition that the maintenance of a quality
13 environment for the people of this state is a matter of statewide
14 concern.

15 (b) Guidelines implementing CEQA have evolved and expanded,
16 and currently provide that project impacts be evaluated based on
17 84 criteria covering the following 17 environmental topical areas:

18 (1) Air quality.

- 1 (2) Biological resources, including protected species and habitat
2 types.
- 3 (3) Cultural resources, including archaeological resources.
- 4 (4) Geology and soils, including seismic and landslide risk.
- 5 (5) Greenhouse gas emissions.
- 6 (6) Hazards and hazardous materials, including toxic chemical
7 exposures, brownfields or contaminated site issues, and accident
8 risks.
- 9 (7) Hydrology and water quality, including flooding and sea
10 level rise.
- 11 (8) Land use planning, including consistency with land use
12 plans.
- 13 (9) Public services, including fire and police protection, schools,
14 parks, and other public facilities.
- 15 (10) Traffic and transportation, including transit, vehicular,
16 bicycle, and pedestrian transportation, emergency access, and
17 roadway safety.
- 18 (11) Utilities and service systems, including wastewater, water
19 supply, stormwater, landfill, and waste management systems.
- 20 (12) Aesthetics.
- 21 (13) Agriculture and forestry resources.
- 22 (14) Mineral resource availability.
- 23 (15) Noise.
- 24 (16) Population and housing growth.
- 25 (17) Recreational resources.
- 26 (c) In the years before and the 40 years following the enactment
27 of CEQA, Congress and the Legislature have each adopted more
28 than 100 laws to protect environmental quality in those
29 environmental topical areas required to be independently mitigated
30 under CEQA described in subdivision (b). The Legislature has
31 enacted environmental protection laws that are as or more stringent
32 than federal law, and California environmental laws are often at
33 the cutting edge of environmental protection nationally and even
34 globally. These environmental protection laws, all enacted after
35 1970, include, but are not limited to, the following:
 - 36 (1) Air quality, including air pollution and toxic air
37 contaminants: the federal Clean Air Act (42 U.S.C. Sec. 7401 et
38 seq.) and the federal Acid Precipitation Act of 1980 (42 U.S.C.
39 Sec. 8901 et seq.), and California air quality laws, including
40 Division 26 (commencing with Section 39000) of the Health and

1 Safety Code, the Protect California Air Act of 2003 (Chapter 4.5
2 (commencing with Section 42500) of Part 4 of Division 26 of the
3 Health and Safety Code), the Carl Moyer Memorial Air Quality
4 Standards Attainment Program (Chapter 9 (commencing with
5 Section 44275) of Part 5 of Division 26 of the Health and Safety
6 Code), the California Port Community Air Quality Program
7 (Chapter 9.8 (commencing with Section 44299.80) of Part 5 of
8 Division 26 of the Health and Safety Code), the California Clean
9 Schoolbus Program (Chapter 10 (commencing with Section
10 44299.90) of Part 5 of Division 26 of the Health and Safety Code),
11 the Air Pollution Permit Streamlining Act of 1992 (Article 1.3
12 (commencing with Section 42320) of Chapter 4 of Part 4 of
13 Division 26 of the Health and Safety Code), and the California air
14 pollution control laws, including the Air Toxics “Hot Spots”
15 Information and Assessment Act of 1987 (Part 6 (commencing
16 with Section 44300) of Division 26 of the Health and Safety Code),
17 the Atmospheric Acidity Protection Act of 1988 (Chapter 6
18 (commencing with Section 39900) of Part 2 of Division 26 of the
19 Health and Safety Code), the Connelly-Areias-Chandler Rice Straw
20 Burning Reduction Act of 1991 (Section 41865 of the Health and
21 Safety Code), and the Lewis-Presley Air Quality Management Act
22 (Chapter 5.5 (commencing with Section 40400) of Part 3 of
23 Division 26 of the Health and Safety Code).

24 (2) Biological resources, including protected species and habitat
25 types: the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
26 1531 et seq.), the federal Migratory Bird Treaty Act (16 U.S.C.
27 Sec. 703 et seq.), the federal Bald and Golden Eagle Protection
28 Act (16 U.S.C. Sec. 668), Section 404(b) of the federal Clean
29 Water Act (33 U.S.C. Sec. 1344(b)), the federal Marine Mammal
30 Protection Act of 1972 (16 U.S.C. Sec. 1361 et seq.), the federal
31 Nonindigenous Aquatic Nuisance Prevention and Control Act of
32 1990 (16 U.S.C. Sec. 4701 et seq.), the California Endangered
33 Species Act (Chapter 1.5 (commencing with Section 2050) of
34 Division 3 of the Fish and Game Code), Sections 1602, 3503.5,
35 3511, 3513, and 4700 of the Fish and Game Code, the Oak
36 Woodlands Conservation Act (Article 3.5 (commencing with
37 Section 1360) of Chapter 3 of Division 2 of the Fish and Game
38 Code), Article 3 (commencing with Section 355) of Chapter 3 of
39 Division 1 of the Fish and Game Code, Division 5 (commencing
40 with Section 5000) of the Fish and Game Code, Division 6

1 (commencing with Section 5500) of the Fish and Game Code, and
2 subdivision (e) of Section 65302 of the Government Code.

3 (3) Cultural resources, including archaeological resources:
4 Section 106 of the federal National Historic Preservation Act (16
5 U.S.C. Sec. 470(f)), the federal American Indian Religious
6 Freedom Act (42 U.S.C. Sec. 1996), Section 7050.5 of the Health
7 and Safety Code, and Section 5097.9.

8 (4) Climate change and greenhouse gas emissions: the federal
9 Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the federal Energy
10 Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et
11 seq.), the California Global Warming Solutions Act of 2006
12 (Division 25.5 (commencing with Section 38500) of the Health
13 and Safety Code), Division 26 (commencing with Section 39000)
14 of the Health and Safety Code, the California Alternative and
15 Renewable Fuel, Vehicle Technology, Clean Air, and Carbon
16 Reduction Act of 2007 (Chapter 8.9 (commencing with Section
17 44270) of Part 5 of Division 26 of the Health and Safety Code),
18 the California Energy-Efficient Vehicle Group Purchase Program
19 (Article 1.5 (commencing with Section 43810) of Chapter 4 of
20 Part 5 of Division 26 of the Health and Safety Code), Section
21 43018.5 of the Health and Safety Code, and Chapter 728 of the
22 Statutes of 2008.

23 (5) Hazards and hazardous materials, including toxic chemical
24 exposures, brownfields or contaminated site issues, and chemical
25 accident risks: the federal Comprehensive Environmental
26 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
27 Sec. 9601 et seq.), the federal Resource Conservation and Recovery
28 Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the federal Emergency
29 Planning and Community Right-to-Know Act of 1986 (42 U.S.C.
30 Sec. 11001 et seq.), the federal Pollution Prevention Act of 1990
31 (42 U.S.C. Sec. 13101 et seq.), the federal Oil Pollution Act of
32 1990 (33 U.S.C. Sec. 2701 et seq.), the Federal Insecticide,
33 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), the
34 federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et
35 seq.), the federal Asbestos Hazard Emergency Response Act of
36 1986 (15 U.S.C. Sec. 2641 et seq.), the federal Lead-Based Paint
37 Exposure Reduction Act (15 U.S.C. Sec. 2681 et seq.), the federal
38 Low-Level Radioactive Waste Policy Act (42 U.S.C. Sec. 2121b
39 et seq.), the federal Lead Contamination Control Act of 1988 (42
40 U.S.C. Sec. 300j-21 et seq.), the Hazardous Waste Control Law

1 (Chapter 6.5 (commencing with Section 25100) of Division 20 of
2 the Health and Safety Code), Chapter 6.7 (commencing with
3 Section 25280) of Division 20 of the Health and Safety Code,
4 Sections 25356.1.5 and 25395.94 of the Health and Safety Code,
5 Chapter 6.95 (commencing with Section 25500) of Division 20 of
6 the Health and Safety Code, the Elder California Pipeline Safety
7 Act of 1981 (Chapter 5.5 (commencing with Section 51010) of
8 Part 1 of Division 1 of Title 5 of the Government Code), and the
9 Natural Gas Pipeline Safety Act of 2011 (Article 2 (commencing
10 with Section 955) of Chapter 4.5 of Part 1 of Division 1 of the
11 Public Utilities Code).

12 (6) Hydrology and water quality, including flooding and sea
13 level rise: the federal Water Pollution Control Act (33 U.S.C. Sec.
14 1251 et seq.), the National Contaminated Sediment Assessment
15 and Management Act (33 U.S.C. Sec. 1271 et seq.), the federal
16 Safe Drinking Water Act (33 U.S.C. Sec. 300f et seq.), Section
17 1602 of the Fish and Game Code, the Integrated Regional Water
18 Management Planning Act (Part 2.2 (commencing with Section
19 10530) of Division 6 of the Water Code), the Stormwater Resource
20 Planning Act (Part 2.3 (commencing with Section 10560) of
21 Division 6 of the Water Code), the Porter-Cologne Water Quality
22 Control Act (Division 7 (commencing with Section 13000) of the
23 Water Code), the Safe Drinking Water and Toxic Enforcement
24 Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of
25 Division 20 of the Health and Safety Code), the Urban Water
26 Management Planning Act (Part 2.6 (commencing with Section
27 10610) of Division 6 of the Water Code), Part 2.10 (commencing
28 with Section 10910) of Division 6 of the Water Code, the Water
29 Conservation in Landscaping Act (Article 10.8 (commencing with
30 Section 65591) of Chapter 3 of Division 1 of Title 7 of the
31 Government Code), the Storm Water Enforcement Act of 1998
32 (Chapter 5.9 (commencing with Section 13399.25) of Division 7
33 of the Water Code), the Water Recycling Law (Chapter 7
34 (commencing with Section 13500) of Division 7 of the Water
35 Code), Chapter 7.3 (commencing with Section 13560) of Division
36 7 of the Water Code, and Part 2.75 (commencing with Section
37 10750) of Division 6 of the Water Code.

38 (7) Land use planning including consistency with land use plans:
39 the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.
40 1451 et seq.), the Federal Land Policy and Management Act of

1 1976 (43 U.S.C. Sec. 1701 et seq.), the federal Forest and
2 Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.
3 Secs. 1600 to 1614, incl., and 1641 to 1649, incl.), the National
4 Forest Management Act of 1976 (16 U.S.C. Secs. 1600 and 1611
5 to 1614, incl.), the Planning and Zoning Law (Title 7 (commencing
6 with Section 65000) of the Government Code), the Subdivision
7 Map Act (Division 2 (commencing with Section 66410) of Title
8 7 of the Government Code), the California Coastal Act of 1976
9 (Division 20 (commencing with Section 30000) of this code), the
10 Cortese-Knox-Hertzberg Local Government Reorganization Act
11 of 2000 (Part 1 (commencing with Section 56000) of Division 3
12 of Title 5 of the Government Code), the California Green Building
13 Standards Code (Part 11 of Title 24 of the California Code of
14 Regulations), and the California Building Code (Part 2 of Title 24
15 of the California Code of Regulations).

16 (8) Public services, including fire and police protection, schools,
17 parks, solid waste, recycling, and other public facilities: Chapter
18 2 (commencing with Section 17921) of Part 1.5 of Division 13 of
19 the Health and Safety Code, Sections 65996, 65997, and 66477 of
20 the Government Code, Title 7.3 (commencing with Section 66799)
21 of the Government Code, the Used Oil Recycling Act (Article 9
22 (commencing with Section 3460) of Chapter 1 of Division 3 of
23 this code), the California Beverage Container Recycling and Litter
24 Reduction Act (Division 12.1 (commencing with Section 14500),
25 Division 12.3 (commencing with Section 16000), Division 12.4
26 (commencing with Section 16050), and Division 12.7 (commencing
27 with Section 18000) of this code), the Fiberglass Recycled Content
28 Act of 1991 (Division 12.9 (commencing with Section 19500) of
29 this code), the California Integrated Waste Management Act of
30 1989 (Division 30 (commencing with Section 40000) of this code),
31 the California Fire Code (Part 9 of Title 24 of the California Code
32 of Regulations), and Sections 1270 and 6773 of Title 8 of the
33 California Code of Regulations.

34 (9) Traffic and transportation, including transit, vehicular,
35 bicycle, and pedestrian transportation, emergency access, and
36 roadway safety: the federal Safe, Accountable, Flexible, Efficient
37 Transportation Equity Act: A Legacy for Users (23 U.S.C. Sec.
38 101 et seq.), Titles 23 and 49 of the United States Code, and
39 Chapter 2.3 (commencing with Section 65070), Chapter 2.5
40 (commencing with Section 65080), and Chapter 2.8 (commencing

1 with Section 65088) of Division 1 of Title 7 of the Government
2 Code.

3 (10) Utilities and service systems, including wastewater, water
4 supply, stormwater, landfill and waste management systems: Part
5 2.10 (commencing with Section 10910) of Division 6 of the Water
6 Code, Part 2.55 (commencing with Section 10608) of Division 6
7 of the Water Code, the Urban Water Management Planning Act
8 (Part 2.6 (commencing with Section 10610) of Division 6 of the
9 Water Code), and the Water Conservation in Landscaping Act
10 (Article 10.8 (commencing with Section 65591) of Chapter 3 of
11 Division 1 of Title 7 of the Government Code).

12 (11) Aesthetics: the federal Highway Beautification Act of 1965
13 (23 U.S.C. Sec. 131), Article 2.5 (commencing with Section 260)
14 of Chapter 1 of Division 1 of the Streets and Highways Code, the
15 Outdoor Advertising Act (Chapter 2 (commencing with Section
16 5200) of Division 3 of the Business and Professions Code), and
17 subdivision (e) of Section 656302 of the Government Code.

18 (12) Agriculture: the federal Soil and Water Conservation Act
19 of 1977 (16 U.S.C. Sec. 2001 et seq.) and the Williamson Act
20 (Chapter 7 (commencing with Section 51200) of Part 1 of Division
21 1 of Title 5 of the Government Code); and forestry resources: the
22 Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8
23 (commencing with Section 4511) of Part 2 of Division 4) and
24 corresponding regulations (Chapter 4 (commencing with Section
25 895), Chapter 4.5 (commencing with Section 1115), and Chapter
26 10 (commencing with Section 1600) of Division 1.5 of Title 14
27 of the California Code of Regulations), Protection of Forest, Range
28 and Forage Lands (Part 2 (commencing with Section 4101) of
29 Division 4), and the Wild and Scenic Rivers Act (Chapter 1.4
30 (commencing with Section 5093.50) of Division 5).

31 (13) Mineral resources: the federal Surface Mining Control and
32 Reclamation Act of 1977 (30 U.S.C. Sec. 1201 et seq.) and the
33 Surface Mining and Reclamation Act of 1975 (Chapter 9
34 (commencing with Section 2710) of Division 2).

35 (14) Noise: the federal Noise Control Act of 1972 (43 U.S.C.
36 Sec. 4901 et seq.), the federal Aviation Safety and Noise
37 Abatement Act of 1979 (49 U.S.C. Sec. 47501 et seq.), Article 5
38 (commencing with Section 65300) of Chapter 3 of Division 1 of
39 Title 7 of the Government Code, the California Noise Insulation
40 Standards (Part 2 of Title 24 of the California Code of Regulations),

1 the California Employee Noise Exposure Limits (Article 105
2 (commencing with Section 5095) of Group 15 of Subchapter 7 of
3 Chapter 4 of Division 1 of Title 8 of the California Code of
4 Regulations).

5 (d) Over the same 40-year period since the enactment of CEQA,
6 the Legislature has also adopted environmental protection laws
7 affecting three topical areas for which the United States Congress
8 has not taken any action to adopt federal environmental law of
9 general application in California, as follows:

10 (1) Geology and soils, including seismic and landslide risk: the
11 Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5
12 (commencing with Section 2621) of Division 2 of this code), the
13 Seismic Hazards Mapping Act (Chapter 7.8 (commencing with
14 Section 2690) of Division 2 of this code), the California Building
15 Code (Title 24 of the California Code of Regulations), Chapter
16 12.2 (commencing with Section 8875) of Division 1 of Title 2 of
17 the Government Code, subdivision (g) of Section 65302 of the
18 Government Code, and the Surface Mining and Reclamation Act
19 of 1975 (Chapter 9 (commencing with Section 2710) of Division
20 2 of this code).

21 (2) Population and housing growth: Article 10.6 (commencing
22 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
23 Government Code and Chapter 13 (commencing with Section
24 75120) of Division 43.

25 (3) Recreational resources: Section 66477 of the Government
26 Code and the Public Park Preservation Act of 1971 (Chapter 2.5
27 (commencing with Section 5400) of Division 5 of this code).

28 (e) When enacting CEQA and subsequent amendments, the
29 Legislature declared its intent to ensure that all public agencies
30 give major consideration to preventing environmental damage,
31 while providing a decent home and satisfying living environment
32 for every Californian and to create and maintain conditions under
33 which humankind and nature can exist in productive harmony to
34 fulfill the social and economic requirements of present and future
35 generations.

36 (f) Environmental laws, including implementing plans,
37 programs, regulations, and permit requirements that have been
38 adopted since the 1970 enactment of CEQA, are designed to ensure
39 California continues as a national and international leader in

1 protecting the environment, health, safety, and welfare of California
2 and those within its borders.

3 (1) At the local level, the California Constitution and California
4 law require cities, counties, and cities and counties to adopt land
5 use plans in order to develop and implement an orderly planning
6 process for protecting and enhancing the quality of the community
7 and the environment while providing for jobs, revenues,
8 recreational and other services, housing, and other community
9 needs.

10 (2) Pursuant to Chapter 728 of the Statutes of 2008, metropolitan
11 planning organizations (MPOs) are directed to prepare sustainable
12 communities strategies (SCSs) to reduce regional greenhouse gas
13 emissions from the land use and transportation sector. Additionally,
14 many cities and counties have adopted, or are in the process of
15 adopting, land use plans such as general plan updates, zoning code
16 revisions, specific plans, community plans, and area plans to
17 encourage both renewable energy production and higher density,
18 transit-oriented development patterns.

19 (3) In response to the challenges of climate change and in
20 furtherance of energy independence and security, the Legislature
21 has established significant new mandates for the development and
22 use of renewable energy and higher density development patterns
23 that promote transit utilization and conserve water and energy
24 resources.

25 (4) With recent mandates and policies encouraging denser
26 development patterns to promote transit, energy and water
27 efficiency, job and housing growth is prioritized in areas that are
28 already well populated and include urbanized conditions such as
29 regional freeway congestion and local roadway congestion, and
30 neighborhood-scale challenges such as parking and evolving
31 aesthetic values. By directing growth into higher density,
32 transit-oriented development patterns, SCS and local land use plan
33 and zoning code adoption and implementation generally cause
34 significant unavoidable density-related adverse environmental
35 impacts under CEQA, such as traffic and parking and related air
36 quality emissions. Additionally, infrastructure and services in many
37 urbanized areas are challenged and require upgrades that are
38 beyond the fiscal ability or jurisdictional authority, or both, of a
39 city or county, resulting in findings of additional significant
40 unavoidable impacts for CEQA purposes. Impacts from higher

1 density development land use plans and zoning code revisions
2 (urbanization impacts) are evaluated and in many instances
3 approved by decisionmakers as an appropriate policy decision
4 based on climate, energy security, agricultural or open-space
5 preservation, or other inherent policy choices that are informed by
6 the EIR’s environmental analysis and public disclosure process.

7 (g) Environmental laws and regulations identify compliance
8 obligations that apply uniformly to similarly situated projects and
9 activities, and provide critical environmental protections that go
10 well beyond the ad hoc review process created by CEQA.
11 Environmental laws and regulations identify compliance
12 obligations of general applicability and thereby provide greater
13 clarity than the project-by-project ad hoc review process that was
14 created for CEQA in 1970.

15 (h) CEQA requires a public and environmental review process
16 for the review and adoption of land use plans and zoning code
17 revisions, including requirements to avoid or minimize the
18 significant environmental impacts of land use plan and zoning
19 code implementation. For plan or zoning code changes for which
20 an environmental impact report (EIR) was prepared and certified,
21 CEQA mandates inclusion of mitigation measures and alternatives
22 to avoid or minimize significant unavoidable impacts.

23 (i) The court, in *Friends of Westwood v. City of Los Angeles*
24 (1987) 191 Cal.App.3d 259, determined that the CEQA process
25 is required even for projects that complied with the density, use
26 type, and intensity restrictions in applicable land use plans and the
27 zoning code.

28 (j) Applying CEQA’s existing requirements at a project-specific
29 level can often undermine the policy goals and objectives of
30 applicable land use plans. A project that brings higher density to
31 an area, with corresponding jobs, revenues, or housing, also brings
32 traffic and parking demands, with associated air quality and other
33 impacts, as well as a host of other urbanized effects as disclosed
34 in the land use plan EIR. Where urbanized effects have been
35 mitigated on the plan level to the extent feasible, the reanalysis of
36 these impacts at the project level can be problematic.

37 (k) Duplicative CEQA review of projects that comply with the
38 density, use type, and intensity requirements of land use plans that
39 have already undergone an EIR process was not intended by the
40 Legislature and creates unacceptable delays and uncertainties in

1 the plan implementation process. Avoidance of duplicative review
2 will reduce litigation and the considerable political uncertainty
3 that has resulted for communities and project proponents who
4 attempt to implement land use plans, notwithstanding previously
5 disclosed significant unavoidable urbanized impacts.

6 (l) Development of projects consistent with the density, use
7 type, and intensity requirements of land use plans should be
8 encouraged by avoiding duplicative environmental review of those
9 projects if project approval is conditioned on implementing
10 applicable mitigation measures included in the EIR prepared for
11 the applicable land use plans.

12 (m) Public agencies are subject to public notice and disclosure
13 requirements when approving projects, including the Ralph M.
14 Brown Act (Chapter 9 (commencing with Section 54950) of Part
15 1 of Division 2 of Title 5 of the Government Code) and the
16 Bagley-Keene Open Meeting Act (Article 9 (commencing with
17 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
18 the Government Code), and are also authorized to require
19 comprehensive project applications and to condition project
20 approvals under their police powers and other laws, not including
21 CEQA.

22 (n) Public agencies are encouraged to create and maintain
23 electronic records where feasible to reduce paperwork and increase
24 efficiency. The prompt commencement and resolution of litigation
25 filed under this division and CEQA is dependent upon the prompt
26 availability of the respondent public agency's record of proceedings
27 for the challenged agency action. There are no practical means by
28 which records of proceedings which are predominantly maintained
29 in electronic format can be readily accessed, organized, and
30 produced by any party other than the respondent public agency.
31 Where all or most of the respondent agency's record of proceeding
32 is maintained by the respondent agency or its designee in an
33 electronic format, timely production of the record of proceedings
34 requires that the record be prepared by the respondent agency.

35 (o) In enacting this division, it is the intent of the Legislature
36 to further the purposes of CEQA by integrating environmental and
37 planning laws and regulations adopted over the last 40 years, while
38 avoiding the sometimes conflicting and often duplicative ad hoc
39 environmental review and mitigation requirements under CEQA.

1 (p) In enacting this division, it is also the intent of the
2 Legislature to continue to foster public disclosure and informed
3 public participation of the environmental consequences of projects.

4 (q) In enacting this division, it is the intent of the Legislature
5 to preserve the authority of a lead agency, consistent with the
6 jurisdiction and authority of that agency, to disapprove projects
7 or to condition approvals of projects on terms that may require
8 more stringent environmental protections or project approval
9 conditions than those required by applicable environmental or
10 planning laws.

11 21201. For the purposes of this division, the following
12 definitions shall apply:

13 (a) “Applicable environmental law” is a law related to an
14 environmental topical area listed in subdivision (b) of Section
15 21200.5 that is relevant to a project and that does any of the
16 following:

17 (1) Includes a policy determination, or directs or authorizes the
18 adoption by an implementing agency of regulations, plans, or
19 permits, licenses, or authorization applications and approval
20 processing procedure and practices to implement that policy
21 determination, regarding a standard applicable to a topical area
22 requiring analysis and mitigation under CEQA.

23 (2) Identifies quantitative and qualitative analytical methods or
24 approaches, or directs or authorizes the adoption by an
25 implementing agency of regulations, plans, or permits, licenses,
26 or authorization applications and approval processing procedures
27 and practices that include those analytical methods or approaches,
28 regarding a standard.

29 (3) Identifies required or permissible practices for mitigating
30 or minimizing adverse impacts to a topical area requiring analysis
31 and mitigation under CEQA, or directs or authorizes the adoption
32 by an implementing agency of regulations or plans, or directs or
33 authorizes an implementing agency to review and approve permits,
34 licenses, or authorization applications that include avoidance,
35 minimization, mitigation, conditions or other requirements to
36 achieve a standard applicable to a topical area requiring analysis
37 and mitigation under CEQA.

38 (b) “Applicable plan” means a planning document for which
39 an environmental impact report, supplemental environmental

1 impact report, or environmental impact report addendum was
2 certified, including either of the following:

3 (1) A land use plan, such as a general plan, specific plan, or
4 sustainable communities strategies adopted by a city, county, city
5 and county, metropolitan planning organization, or other local,
6 regional, or state agency that establishes use designations, densities,
7 and building intensities.

8 (2) A plan to improve or maintain public facilities or
9 infrastructure to be funded in whole or in part by public funds and
10 which has been adopted by a local, regional, or state agency.

11 (c) “Applicable mitigation requirements” means all mitigation
12 measures included in an applicable plan with the exception of
13 mitigation measures the lead agency determines, based on
14 substantial evidence, are not required to mitigate a potentially
15 significant impact of a proposed project.

16 (d) “CEQA” means the California Environmental Quality Act
17 (Division 13 (commencing with Section 21000)).

18 (e) “Implementing agency” means any state or federal agency,
19 board, or commission, any county, city and county, city, regional
20 agency, public district, or other political subdivision.

21 (f) “Standard” means a quantitative or qualitative level of
22 protection, preservation, enhancement, pollution, reduction,
23 avoidance, or other measure for a topical area requiring analysis
24 and mitigation under CEQA.

25 21202. (a) An environmental document prepared pursuant to
26 CEQA shall disclose all applicable environmental laws.

27 (1) An environmental document prepared under CEQA and that
28 discloses an applicable environmental law described in paragraph
29 (1) of subdivision (a) of Section 21201 shall disclose the applicable
30 compliance requirements of that law, and compliance with the
31 applicable standards for impacts that occur or might occur as a
32 result of approval of the project shall be the exclusive means of
33 evaluating and mitigating environmental impacts under CEQA
34 regarding the subject of that law, notwithstanding any other
35 provision of law.

36 (2) An environmental document prepared under CEQA and that
37 discloses an applicable environmental law described in paragraph
38 (2) of subdivision (a) of Section 21201 shall disclose the applicable
39 analytical methods or approaches, and the disclosure of those
40 analytical methods or approaches shall be the exclusive means of

1 evaluating potential project impacts under CEQA regarding the
2 relevant law, notwithstanding any other provision of law.

3 (3) An environmental document prepared under CEQA and that
4 discloses an applicable environmental law described in paragraph
5 (3) of subdivision (a) of Section 21201 shall disclose the applicable
6 mitigation and minimization methods or approaches typically used
7 by implementing agencies as part of their review and approval or
8 permits, licenses, or authorization applications, and compliance
9 with mitigation and minimization practices shall be the exclusive
10 means of mitigating environmental impacts under CEQA regarding
11 the subject of the relevant law, notwithstanding any other provision
12 of law.

13 (b) The disclosure obligations set forth in this section are
14 intended to foster informed environmental review and public
15 participation in the environmental and public review process
16 required by CEQA or other applicable laws and regulations, such
17 as the Ralph M. Brown Act (Chapter 9 (commencing with Section
18 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
19 and the Bagley-Keene Open Meeting Act (Article 9 (commencing
20 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
21 2 of the Government Code).

22 21203. (a) A cause of action shall not be commenced under
23 Section 21167 for noncompliance with CEQA under either of the
24 following circumstances:

25 (1) If the cause of action relates to an environmental topical
26 area listed in subdivision (b) of Section 21200.5 and the
27 environmental document discloses compliance with any applicable
28 environmental law pertaining to a topical area or any regulation,
29 plan, permit, license, or authorization application and approval
30 processing procedures adopted by an implementing agency as
31 directed or authorized by that applicable environmental law.

32 (2) If the environmental document for the project discloses
33 compliance with applicable environmental law pertaining to a
34 topical area or any regulation, plan, permit, license, or authorization
35 application and approval processing procedures adopted by an
36 implementing agency as directed or authorized by that applicable
37 environmental law; the project conforms to the use designation,
38 density, or building intensity in a land use plan or was included in
39 any other applicable plan identified in subdivision (b) of Section
40 21201; and the lead agency incorporates applicable mitigation

1 requirements included in the certified environmental impact report,
2 supplemental environmental impact report, or environmental
3 impact report addendum prepared for the applicable plan into the
4 environmental document prepared for the project.

5 (b) This section does not prohibit a cause of action otherwise
6 authorized by law to enforce compliance with any other existing
7 local, state, and federal law, regulation, or applicable plan.

8 21204. (a) Except for projects with potentially significant
9 aesthetic impacts on an official state scenic highway established
10 pursuant to section 262 of the Streets and Highways Code, a lead
11 agency shall not be required to evaluate aesthetics pursuant to
12 CEQA or this division, and the lead agency shall not be required
13 to make findings pursuant to subdivision (a) of Section 21081 on
14 or relating to aesthetic impacts.

15 (b) This section does not change the authority of a lead agency
16 to consider aesthetic issues and to require mitigation or avoidance
17 of adverse aesthetic impacts pursuant to discretionary powers
18 provided by laws other than CEQA or this division.

19 21204.5. This division does not modify the obligation of a lead
20 agency to evaluate the potential for a project to effect Native
21 American resources and to comply with Section 5097.98, including
22 the obligation to discuss and confer with the appropriate Native
23 Americans, as identified by the Native American Heritage
24 Commission and the obligation to avoid, mitigate, and minimize
25 adverse impacts to significant Native American resources.

26 21205. This division applies only to projects for which the lead
27 agency or applicant has agreed to provide to the public in a readily
28 accessible electronic format an annual compliance report prepared
29 pursuant to the mitigation monitoring and reporting program
30 required by paragraph (1) of subdivision (a) of Section 21081.6.

31 21206. This division does not preclude any state agency, board,
32 or commission, or any city, county, city and county, regional
33 agency, public district, redevelopment agency, or other political
34 subdivision from requiring information or analysis of the project
35 under consideration, or imposing conditions of approval for that
36 project, under laws and regulations other than this division and
37 CEQA.

38 21207. (a) An environmental document, prepared pursuant to
39 CEQA, shall be required to consider only those environmental
40 topical areas listed in subdivision (b) of Section 21200.5 and only

1 to the extent those environmental topical areas are relevant to the
2 project.

3 (b) Subdivision (b) of Section 21200.5 is not intended to affirm,
4 reject, or otherwise affect court decisions concerning the
5 consistency of the guidelines provisions within the provisions of
6 CEQA.

7 (c) This section does not preclude a lead agency from modifying
8 or updating its analytical methodologies for those topical areas.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of Section
14 17556 of the Government Code.

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